IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.327 OF 1998

The Commissioner of Income-tax ..Applicant.

V/s.

M/s. Monarch Jewellery ..Respondent.

Mr.A.S.Rao for applicant.

CORAM : V.C. DAGA AND J.P.DEVADHAR, JJ.

DATED : 15TH MARCH, 2005.

P.C. :-

1. In this reference, the question referred for the opinion of this Court reads as under :-

> " Whether, on the facts and in the circumstances of the case, the Tribunal was right in holding that the disallowance out of expenditure incurred on salary and perquisites to employee-directors should be made under the provisions of section 40(c) of the of the I.T. Act, 1961 and not under section 40A(5) ? "

2. The above question have already been answered by the Division Bench of this Court in the case of **C.I.T. V/s. Hico Products Pvt.Ltd. (No.1) [(1993) 201 I.T.R. 567 (Bom.)** in favour of the assessee and against the revenue. In this view of the matter, question stands answered in the affirmative for the reasons stated in the case of Hico Products (P) Ltd. Reference, accordingly stands disposed of with no order as to costs.

(V.C. DAGA, J.)

(J.P.DEVADHAR, J.)